

Hon. Richard Jones

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

KYLE LYDELL CANTY,

Plaintiff,

vs.

CITY OF SEATTLE, et al.,

Defendants.

NO. 2:16-CV-01655-RAJ-JPD

CITY OF SEATTLE DEFENDANTS'
RESPONSE TO PLAINTIFF'S MOTION
AND DECLARATION OF DEFENDANTS
MOTIVE AND RETALIATION

I. RELIEF REQUESTED

Defendants City of Seattle, Officer Marshall Coolidge, Sean Culbertson, Timothy Renihan and Officer Hancock (City of Seattle Defendants) request the Court deny Plaintiff's Motion and Declaration of Defendants Motive and Retaliation for failure to comply with Fed. R. Civ. P. 7(b)(1).

II. FACTS RELEVANT TO MOTION

Plaintiff originally filed his 1983 Prisoner Civil Rights Complaint naming the City of Seattle and the Seattle Police Department as defendants on November 5, 2016. Dkt. 5. Plaintiff eventually filed a Second Amended Civil Rights Complaint naming the City of Seattle and individual officers Coolidge, Culbertson, Renihan, and Hancock on June 1, 2017. Dkt. 38. Plaintiff's Complaint alleges the City of Seattle Defendants violated his rights under the

Fourth, Fifth, and Eighth Amendments to the United States Constitution during his detention on a civil commitment warrant. *Id.* Plaintiff subsequently filed this Motion and Declaration of Defendants Motive and Retaliation on July 10, 2017. Dkt. 53. Plaintiff's Motion consists of a five-page "Affidavit of Facts" that describes the processing of his petition for asylum to Canada, includes as an exhibit an opinion piece he wrote for *The Guardian* about his asylum petition, and asserts that the City of Seattle Defendants used information about his asylum petition for improper purposes. Dkt. 53.

III. ARGUMENT

Plaintiff's Motion Should Be Denied Because It Does Not State Any Particular Grounds For Seeking An Order, Or What Relief Is Sought

The Rules of Civil Procedure require that requests for court orders be made by motion. Fed. R. Civ. P. 7(b)(1). Motions must: 1) be in writing; 2) state with particularity the ground for seeking the order; and 3) state the relief sought. *Id.* Courts have generally given liberal interpretation to Rule 7(b)'s requirement that motions "state with particularity the grounds therefor." *Harkins v. Ford Motor Co.*, 437 F.2d 276 n.1 (3d Cir. Pa. 1970). However, Rule 7(b)'s requirement that the moving party state with particularity grounds for his motion is not intended to be merely a matter of form, but real and substantial. *Steingut v. National City Bank*, 36 F Supp 486, 487 (D.N.Y. 1941). "[M]otions giving no reasons have no effect" and should be denied. *Stephenson v. Deutsche Bank AG*, 282 F. Supp. 2d 1032, 1041 n.7 (D. Minn. 2003), quoting *Lac Du Flambeau Band of Lake Superior Chippewa Indians v. Wisconsin*, 957 F.2d 515, 516 (7th Cir. 1992). Courts have usually interpreted Fed. R. Civ. P. 7(b) strictly, refusing to recognize requests for relief not specified in the moving papers. *De Lorenzo v. Fed. Deposit Ins. Corp.*, 268 F. Supp. 378, 381 (S.D.N.Y. 1967).

Plaintiff's "motion" contains a five-page recitation of self-serving facts and speculation allegedly demonstrating the City of Seattle Defendants' improper and/or retaliatory motives.

1 Dkt. 53. Plaintiff's motion does not state what, if any, relief he is seeking by filing this
 2 document. Nor has he filed a proposed order with his motion as required by local rule that
 3 might enlighten the City of Seattle Defendants as to his motion's purpose. *See* W.D. Wash.
 4 LCR 7(b)(1). Plaintiff states no legal basis whatsoever for his motion, let alone the particular
 5 grounds required by Fed. R. Civ. P. 7(b) for filing a motion. The lack of grounds and request
 6 for relief are fatal to Plaintiff's motion and the Court should therefore deny it.

7 IV. CONCLUSION

8 Plaintiff's Motion and Declaration of Defendants Motive and Retaliation states no legal
 9 grounds for seeking an order, nor includes any request for relief as required by the Federal
 10 Civil Rules. The Court should therefore deny Plaintiff's motion.

11 DATED this 24th day of July, 2017.

12
 13 s/ Gregory E. Jackson
 14 GREGORY E. JACKSON, WSBA #17541
 15 Freimund Jackson & Tardif, PLLC
 16 701 5th Avenue, Suite 3545
 17 Seattle, WA 98104
 18 Telephone: (206) 582-6001
 19 Facsimile: (206) 466-6085
 20 gregj@fjtlaw.com
 21 Attorneys for Defendants City of Seattle,
 22 Officer Marshall Coolidge, Sean Culbertson,
 23 Timothy Renihan and Officer Hancock

24 s/ John R. Nicholson
 25 JOHN R. NICHOLSON WSBA #30499
 26 Freimund Jackson & Tardif, PLLC
 701 5th Avenue, Suite 3545
 Seattle, WA 98104
 Telephone: (206) 582-6001
 Facsimile: (206) 466-6085
Johnn@fjtlaw.com
 Attorneys for Defendants City of Seattle,
 Officer Marshall Coolidge, Sean Culbertson,
 Timothy Renihan and Officer Hancock

1
2 s/ Amee J. Tilger

3 AMEE J. TILGER, WSBA #34613

4 Freimund Jackson & Tardif, PLLC

5 701 5th Avenue, Suite 3545

6 Seattle, WA 98104

7 Telephone: (206) 582-6001

8 Facsimile: (206) 466-6085

9 AmeeJ@fjtlaw.com

10 Attorneys for Defendants City of Seattle,

11 Officer Marshall Coolidge, Sean Culbertson,

12 Timothy Renihan and Officer Hancock

CERTIFICATE OF SERVICE

I certify that on the 24th day of July, 2017, I caused a true and correct copy of this document to be served on the following in the manner indicated below:

Pro se Plaintiff, Kyle Lydell Canty #216035994 King County Jail (Seattle) 500 5 th Ave. Seattle, WA 98104	(X) U.S. Mail
---	-----------------

DATED this 24th day of July, 2017, in Seattle, Washington.

s/Courtney Grubb
COURTNEY GRUBB, Legal Assistant to
GREGORY E. JACKSON
JOHN R. NICHOLSON
AMEE J. TILGER
701 5TH Avenue, Suite 3545
Seattle, WA 98104
courtneyg@fjtlaw.com